

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2038

SPONSOR: Senator Smith

SUBJECT: Retirement

DATE: March 31, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>ACJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	<u>RC</u>	_____
6.	_____	_____	_____	_____

I. Summary:

The bill provides that designated public safety employees who suffer catastrophic injuries as a result of the felonious acts of others shall be considered totally and permanently disabled unless proven otherwise by the employer. The bill permits re-employment after retirement of deputy sheriffs, firefighters and paramedics for up to 780 hours after retirement without forfeiture of state retirement benefits. The bill also extends to municipal police officers and firefighters a presumed receipt of a minimum 80 percent of their monthly compensation at the time of sustaining a catastrophic injury in the line of duty when due to the felonious act of another. The bill funds the benefit increase by an employer-paid increase to the FRS and provides a statement of important state interest.

This bill substantially amends the following sections of the Florida Statutes: 121.091, 175.191 and 185.18.

II. Present Situation:

Various provisions of Florida law provide for the receipt of benefits when an injury is sustained during the course of employment. The current definition in ch. 121, F.S., for the receipt of disability income benefits under the Florida Retirement System (FRS) requires the officer or employee to be unable to render useful or efficient service. In-line-of-duty disability eligibility begins from the first day on the job while there are varying suspense periods for eligibility when it is not job-related. The minimum level of disability is 42 percent when in-the-line-of duty, with a presumptive level of 65 percent for public safety employees in the Special Risk Class. For all others the level is set at 25 percent of average final compensation.

Municipal police and firefighter pension plans all have individually negotiated disability income provisions. For a number of plans the inability to render useful and efficient service as an officer itself is the only governing standard. Both chapters 175 and 185, F.S., establish a framework for the development of a benefit package by the more than 500 plans in the state. The actual terms and conditions vary individually.

Chapter 440, F.S., governs the standards for workplace injury and its compensation. Section 440.02(37), F.S., defines a catastrophic injury as a permanent impairment affecting the spinal cord, limb, brain or head injury, burns, blindness, or other injury recognized under the Social Security Act.

III. Effect of Proposed Changes:

Section 1. – The act is entitled the “Officer Malcolm Thompson Act.”

Section 2. – The act makes a declaration of important state interest in compliance with Article VII, s. 18, State Constitution.

Section 3. – Section 121.091(4), F.S., is amended to provide that a Special Risk Class member of the FRS who is employed as a law enforcement, correctional or correctional probation officer; firefighter, emergency medical technician, or paramedic who is otherwise catastrophically injured as defined in s. 440.02(37), F.S., shall be considered totally and permanently disabled unless proven otherwise.

Subsection (9) is amended to permit the reemployment after retirement of a deputy sheriff on a contractual basis after one month without loss of retirement benefits, provided no more than 780 hours are worked during the first 12 months of retirement. Employment in excess of this level, or the failure by an employer to notify the Division of Retirement of the reemployment, shall cause suspension of the retirement benefit. Benefits paid in violation of this provision must be repaid into the system trust fund.

Sections 4 and 5. – Sections 175.191 and 185.18, F.S., are amended to provide a minimum accrued retirement benefit of a minimum of 80 percent of average monthly compensation for any firefighter, municipal police officer, or paramedic respectively, who sustains a catastrophic injury in the line of duty that is the result of a felonious act of another.

Section 6. – The bill provides a 2- and 14-basis point (.02 percent and .14 percent) employer-paid increase to the Special Risk and Special Risk Administrative Support Classes of the FRS to fund the benefit.

Section 7. – The act takes effect upon becoming a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill contains a statement of important state interest which exempts the provisions of the bill from restrictions on unfunded mandates.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill declares and determines that the provisions of the bill fulfill an important state interest pursuant to Article 18, Section VII of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Management Services cautions that there will be an increase in expected retirement disability costs resulting from this bill that must be reflected in contribution rate increases. To pre-fund the benefits affected by this bill requires a 2- and 14-basis point (.02 percent and .14 percent) increase in Special Risk and Special Risk Administrative Support retirement class rates. Local government costs are expected to be \$387,000 and state government costs \$171,000 for FY 04.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In certain circumstances, disability income is not taxed. One effect of this bill is to provide a tax-free benefit greater than gross compensation before the occurrence of the injury. This provides an income greater than could have been earned.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
